

10/20/08

(11)

Christine Joyce

From: Steve Ledoux
Sent: Friday, October 17, 2008 10:30 AM
To: Manager Department
Subject: FW: Old High School Commons

Steven L. Ledoux
Town Manager
472 Main St
Acton, MA 01720
Telephone: (978) 264-9612
Fax: (978) 264-9630

When writing or corresponding, please be aware that the Secretary of State has determined that most email is a public record and, therefore, may not be kept confidential.

From: Ryan D. Pace [mailto:rpac@AndersonKreiger.com]
Sent: Friday, October 17, 2008 9:56 AM
To: Steve Ledoux
Cc: Roland Bartl
Subject: RE: Old High School Commons

Steve -

I apologize if there was some confusion here. As you can tell from my October 9th e-mail, I was under the impression that you were already holding a signed copy of the lease amendment in your file. For your convenience, I have attached a .pdf to this e-mail with the final lease amendment and the critical path time schedule. If this document is acceptable to you and the Selectmen, perhaps they can sign the lease amendment on Monday night. Would you please ask them to initial the critical path time schedule when they execute the document and then fax the signed lease amendment (with the schedule) to me and mail the signed original of the lease amendment to my attention?

As always, please feel free to call or e-mail with any questions.

Regards,
Ryan

Ryan D. Pace
ANDERSON & KREIGER LLP
One Canal Park, Suite 200
Cambridge MA 02141

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10/17/2008

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From: Roland Bartl [mailto:rbartl@acton-ma.gov]
Sent: Thursday, October 16, 2008 4:18 PM
To: Ryan D. Pace; Steve Ledoux
Cc: Board of Appeals
Subject: Old High School Commons

Hi:

The ZBA is still holding out on signing the decision for the 40B project at the Town School until the lease extension is executed. Where does this stand? The ZBA's deadline for issuing the permit is approaching quickly!!

*Roland Bartl, AICP
Planning Director, Town of Acton
472 Main Street
Acton, MA 01720
978-264-9636*

10/17/2008

LEASE AMENDMENT AGREEMENT

DATE OF ORIGINAL LEASE: December 18, 2006

LESSOR: The Town of Acton

LESSEE: Common Ground Development Corporation

PROPERTY: Towne School Property, Acton Massachusetts

This Lease Amendment Agreement (the "Amendment") is made this ____ day of October 2008 by and between The Town of Acton (the "The Town of Acton" or "Lessor" herein) and Common Ground Development Corporation (the "Tenant" or "Lessee" herein).

Whereas the Lessor and Lessee entered into a Lease dated December 18, 2006 (the "Lease") and the parties hereto desire to amend the terms and conditions of such Lease.

Now, therefore, for good and valuable consideration, the parties hereto agree as follows:

1. Terms and conditions not defined herein shall have the meaning ascribed to them in the Lease.
2. The parties hereto agree to revise Section 2.1 entitled "Term" to read as follows:

2.1 Term. The Premises are hereby leased unto Tenant and its successors and assigns for a fifty (50) year term (the "**Term**"), commencing on the earlier of the date of the construction loan closing for the Initial Improvements or February 28, 2010 (the "**Commencement Date**"), and unless earlier terminated in accordance with the provisions hereof, ending on the next business day before the fiftieth anniversary of the Commencement Date (the "**Termination Date**"). Tenant shall deliver thirty (30) days prior written notice to the Town of Acton before the date of the construction loan closing mentioned above.

3. The parties hereto agree to revise the first two sentences of Section 3.1(a) to read as follows:

In order to render the premises suitable for Tenant's intended use, Tenant shall have the right to construct the Tenant's improvements (the "**Initial Improvements**") described in Exhibit C attached hereto and incorporated herein (the "**Schematic Design Plans**"). Tenant shall commence work on the Initial Improvements no later than thirty (30) days after the Commencement

Date but not later than three (3) years after the date hereof (the "Outside Construction Start Date").

4. The parties hereto agree to substitute the attached Exhibit D, Critical Path Time Schedule, for Exhibit D in the Lease.
5. All other terms and conditions of the original Lease not amended by this Amendment shall remain unchanged.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized representatives.

TENANT:
Common Ground Development Corporation

By:
Its: President

TOWN OF ACTON, MASSACHUSETTS
By its Board of Selectmen

Lauren S. Rosenzweig, Chair

Paulina Knibbe, Vice-Chair

Andrew D. Magee, Clerk

Peter Berry, Member

Terra Friedrichs, Member

EXHIBIT D

10. Critical path time schedule

Project Milestones	Projected Completion Date
Comprehensive Permit	October 1, 2008
Submit Funding Applications to DHCD	October 2008, if unsuccessful, March 2009 and October 2009
Notice of Award DHCD	February 2009 or September 2009 or February 2010
Construction Loan Financial Closing	3 rd Quarter of 2009, 1 st Quarter 2010 or 3 rd Quarter 2010 depending upon DHCD award.
Complete Design Development Architectural Plans	4th Quarter 2008
Complete Final Design Plans	1 st Quarter 2009
Apply for Building Permit	Upon Notice of DHCD Award (See above)
Commence Construction	Within 30 days of Construction Loan Closing (See above)
Construction Completion	12 Months from Construction Commencement
Seek Certificates of Occupancy	Within 30-45 days of Construction Completion
Affordable Units Lottery	Upon Issuance of Certificates of Occupancy
Commence Marketing Lease-up remaining units	Upon Issuance of Certificates of Occupancy
Stabilization – Full Occupancy	Within Nine Months of Certificate of Occupancy
Close Permanent Financing	Within 60 days of Stabilization

Note: All dates/timeframes based on calendar year